

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AMAZON.COM, INC., a Delaware corporation; AMAZON.COM SERVICES LLC, a Delaware limited liability company; and THE ERGO BABY CARRIER, INC., a Hawaii corporation,

Plaintiffs,

v.

MICHAEL BARTLEY, an individual; JEAN BATALIEN, an individual; RACHEL DIEKMANN, an individual; HAZEL FLORES, an individual d/b/a Webox.com Prep Center; NAMDIDIE IKON, an individual; JUSTIN RALEY, an individual; SEBASTIAN GONZALEZ ROJAS, an individual; KATHRYN SPOSATO, an individual; JEAN ST. VIL, an individual; MICHAEL SUTTON, an individual; and DOES 1-10,

Defendants.

No. 2:24-cv-01188-MJP

**DECLARATION OF SCOTT
COMMERSION IN SUPPORT OF
PLAINTIFFS' MOTION FOR LEAVE
TO FILE AMENDED COMPLAINT**

I, Scott Commerson, declare and state as follows:

1. I am a Partner at the law firm Davis Wright Tremaine LLP, which represents Plaintiffs Amazon.com, Inc. and Amazon.com Services LLC (together, "Amazon") and the Ergo Baby Carrier, Inc. ("Ergobaby," and with Amazon, "Plaintiffs") in the above-titled litigation. I am over 18 years of age. The statements made below are true to the best of my knowledge and belief. I make them in support of Plaintiffs' Motion for Leave to File an Amended Complaint.

2. Attached to this Declaration as **Exhibit A** is a copy of Plaintiffs' proposed First Amended Complaint ("Amended Complaint"), redlined to demonstrate how it differs from Plaintiffs' Complaint.

3. Attached to this Declaration as **Exhibit B** is a clean and signed copy of Plaintiff's proposed Amended Complaint.

4. After serving Defendants with Plaintiffs' Complaint, a number of Defendants engaged my office in discussions about the potential for early resolution of the case. We requested that Defendants provide certain information related to their sale of counterfeit Ergobaby-branded products in the Amazon.com Store (the "Amazon Store"). Several Defendants responded to our requests, and we received the last of those responses on December 6, 2024.

5. The information provided by Defendants revealed a previously unknown individual who participated in Defendants' counterfeiting scheme, and also disclosed new facts relating to the scheme. Specifically, we learned that in addition to selling counterfeit Ergobaby products through a Selling Account under her control, Defendant Hazel Flores ("Flores") also provided services, via her company (Webox), also provided services to several other Defendants related to their management of their Selling Accounts and their advertisement, distribution, and sale of counterfeit Ergobaby-branded products in the Amazon Store.

6. Further, we learned that certain individuals were introduced to Flores and supplied counterfeit Ergobaby-branded products by an individual named Seymour Watson a/k/a/ Nick Watson ("Watson"). Defendants' materials disclosed that Watson approached these Defendants and encouraged them to sell Ergobaby-branded products through their Amazon selling accounts; and that Watson described the products as popular products that provided sellers with desirable profit margins. We also learned that Watson sourced the counterfeit Ergobaby-branded products sold in the Amazon Store by at least two Defendants through his company, Ethanmour Holdings LLC.

7. Plaintiffs now seek to file an Amended Complaint naming Watson as a defendant, elaborating on the allegations relating to Defendants' counterfeiting scheme, and explaining the

1 multifaceted role played by Flores within that scheme. Based on the newly-discovered facts
2 concerning Watson and Flores, the Amended Complaint asserts additional causes of action
3 against them for contributory trademark infringement and contributory false designation of
4 origin in violation of the Lanham Act.

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6 I declare under penalty of perjury that the foregoing is true and correct to the best of my
7 knowledge.

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9 EXECUTED this 10th day of January, 2025, at Los Angeles, California.

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12 _____
13 Scott Commerson
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